

**Department of Consumer Affairs**  
**REGULATIONS**  
**Title 16. California Code of Regulations**  
**Division 41. Professional Fiduciaries Bureau**  
**Article 1. General Provisions**

**Changes to the originally proposed language are shown by bold and double underline for new text and bold and underline with strikeout for deleted text.**

**§ 4400. Introduction.**

These regulations are adopted by the Professional Fiduciaries Bureau to implement and make specific the provisions of the Professional Fiduciaries Act, commencing with Section 6500 of the Business and Professions Code.

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500 and 6510, Business and Professions Code.*

**§ 4402. Mailing Address of Bureau.**

The mailing address of the Professional Fiduciaries Bureau is P.O. Box ~~989005~~ **989007**, West Sacramento, CA 95798-~~0005~~ **9007**.

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500 and 6510, Business and Professions Code.*

**§ 4404. Filing of Address of Record.**

Each licensee shall have on file with the Bureau his or her correct street addresses, which shall include a physical business and residence address. In addition, each licensee shall designate an address of record that shall be public information, which may consist of a post office box number or other viable mailing address. Each licensee shall within fifteen (15) business days notify the Bureau in writing of any changes in his or her street or mailing addresses, giving both the old and new addresses and any changes.

*NOTE: Authority cited: Sections 136 and 6517, Business and Professions Code. Reference: Sections 136, 6510 and 6534, Business and Professions Code.*

**§ 4406. Definitions.**

For the purpose of the regulations contained in this division, the term:

(a) “Act” means the provisions of the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

(b) “Bureau” means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to 6510 of the Business and Professions Code.

(c) “Licensee” means a person who is licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code as a “licensed professional fiduciary” pursuant to Section 6536.

(d) “Consumer,” under the Act, means an individual with whom the licensee has established a fiduciary relationship including: a conservatee when the fiduciary is acting as a court-appointed conservator; a ward when the fiduciary is acting as a court-appointed guardian, a principal when the fiduciary is acting under a durable power of attorney, and a beneficiary when the fiduciary is acting as a trustee.

(e) Trustee as a Professional Fiduciary – A person acting as a trustee under the Act is an individual who meets the requirements of paragraph (1) and (2) and shall be licensed as a professional fiduciary unless exempt under the Act.

(1) Licensing applies to the following persons:

(A) An individual acting as trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary, or

(B) An individual, acting on behalf of an entity appointed as trustee, to perform the functions of a trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary.

(2) Number of non-family member trustors applies as follows:

A professional fiduciary as defined in Section 6501, includes a person acting as trustee for more than three people or more than three families or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership, unless excluded under the Act. Trustors shall be counted and neither beneficiaries nor trusts shall be counted.

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500, 6501, 6502, 6510, and 6530 Business and Professions Code.*

## **Article 2. Application and Licensure**

### **§ 4420. Place of Filing.**

An application for licensure shall be filed with the Bureau at its **mailing designated** address.

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6500, 6510, and 6533, Business and Professions Code.*

### **§ 4422. Application.**

(a) A person applying for a license as a professional fiduciary shall submit an application for licensure to the Bureau and pay the application fee required in Section 4580.

(b) An application for licensure shall require the applicant to meet the qualifications of Section 6533 of the Business and Professions Code and, in addition, provide the following information:

(1) For a determination of compliance with the education requirements under subdivision (g) of Section 6533, if applicable, the applicant shall provide the names of the universities or colleges, the dates of graduation, and the applicable degrees awarded.

(2) For a determination of compliance with the experience requirements under subdivision (g) of Section 6533, if applicable, the applicant shall provide information regarding the qualifying substantive fiduciary responsibilities, including type and dates of experience, and contact information for three references, and shall provide consent for the Bureau to contact the references for verification of specified experience.

(3) The applicant's physical business address, telephone number, and facsimile number.

(4) The applicant's designated address of record for public information.

(5) A list of any license or professional certificate ever held by the applicant, including information regarding the type, state/county, license or certificate number, date issued, status, and whether the license or certificate has been subject to disciplinary action, including revocation or suspension. **The applicant may attach a statement of explanation.**

(6) Whether the applicant has filed for bankruptcy within the last ten **(10)** years or held a controlling financial interest in a business when that business filed for bankruptcy within the last ten years **and the date of the bankruptcy filing. The applicant may attach a statement of explanation.**

(7) Whether the applicant has ever been convicted of a crime. **The applicant may attach a statement of explanation.**

(8) Whether the applicant has ever been found by a court to have breached a fiduciary duty, the date, case name, court location, and case number associated with each breach of fiduciary duty. The applicant shall submit a record of the court findings and orders related to each specific case. The applicant may file an additional statement of the issues and facts pertaining to each case.

(9) Whether the applicant has ever been removed as a fiduciary by a court for breach of trust, the date, case name, court location, and case number associated with each removal. Whether all related appeals have been taken or the time to file an appeal has expired. The applicant shall submit a record of the court findings and orders related to each specific case. The applicant may file an additional statement of the issues and facts pertaining to each case.

(10) Whether the applicant has ever resigned as a fiduciary in a matter in which a complaint has been filed, the date **the complaint was filed, the date of the resignation,** case name, court location, and case number associated with each resignation, and a statement of the issues and facts pertaining to each allegation. The applicant shall submit a record of the court findings and orders related to each specific case.

(11) Whether the applicant has ever settled as a fiduciary in a matter in which a complaint has been filed, the date **the complaint was filed, the date of the settlement,** case name, court location, **and** case number associated with each settlement, and a statement of the issues and facts pertaining to each

allegation. The applicant shall submit a record of the court findings and orders related to each specific case.

**(c) As used in this section “complaint” means a civil complaint, a petition, motion, objection, or other pleading filed with the court against the licensee alleging the licensee has not properly performed the duties of a fiduciary.**

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 6533, 6534, 6536, 6538, 6539, and 6561, Business and Professions Code.*

#### **§ 4424. Review of Application; Processing Time; Issuance of License.**

(a) Within ninety (90) days of receipt of an application for licensure the Bureau shall inform the applicant in writing that it is both complete and accepted for filing or that it is deficient and what specific information or documentation is needed to complete the application. An application is considered complete if it is in compliance with Section 4422.

(b) Once the application is complete and accepted for filing, the Bureau shall inform the applicant in writing within thirty (30) days that ~~they~~ he/she are approved or denied for licensure. Once approved for licensure, the applicant shall submit the initial license fee required in Section 4580 subject to the limitation of subdivision (b) of Section 4426 to become a licensed professional fiduciary under the Act.

*NOTE: Authority cited: Sections and 6517, Business and Professions Code. Reference: Sections 141, 6535, 6536, and 6537, Business and Professions Code.*

#### **§ 4426. Abandonment of Application.**

(a) An application for licensure shall be deemed abandoned and the application fee forfeited when the applicant fails to complete the application within twelve (12) months from the date of notification of deficiency or, if applicable, within twelve (12) months from date of notification of examination eligibility as provided for in Section 4500.

(b) An application for licensure shall be deemed abandoned when an applicant approved for licensure by the Bureau fails to submit the initial license fee required in Section 4580 within twelve (12) months from the date of approval for licensure.

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 142 and 6533, Business and Professions Code.*

#### **§ 4428. Duration of Initial License Period; First License Renewal Date; Proration of Initial License Fee; Continued Education Requirements for Initial License Period.**

(a) To adjust the duration of the initial license period ~~to set~~ setting the renewal date for each licensee, a professional fiduciary's initial license shall expire at twelve (12) midnight on the last day of the month in which the second birthday of the licensee occurs after the issuance of the license if not renewed. No license shall be issued for less than twelve (12) or more than 24 months.

(b) The initial license fee shall be prorated as required in Section 4580.

(c) For each month of proration from the date of issuance of the initial license beyond the first twelve (12) months of licensure, the licensee shall earn at least 1.25 hours of continued education units in addition to the continued education requirements of Section 4442.

*NOTE: Authority cited: Sections 152.6, and 6517, Business and Professions Code. Reference: Sections 134, 152.6, and 6541, Business and Professions Code.*

## **Article 5. Examination**

### **§ 4500. Examination.**

(a) Once an applicant is deemed eligible to take the licensing examination, the applicant has twelve (12) months in which to achieve a passing score. If an applicant initially fails to pass the examination the applicant may sit for re-examination a maximum of four times within the twelve (12) month eligibility period not to exceed one re-examination attempt every 30 days.

(b) The licensing examination shall consist of two parts, one part that is national in scope and one part that is specific to California law. To pass the licensing examination, an eligible applicant shall receive passing scores on both parts.

*NOTE: Authority cited: Sections 6517 and 6539, Business and Professions Code. Reference: Sections 6518, 6533, and 6539, Business and Professions Code.*

## **Article 6. License Denial**

### **§ 4520. Substantially Related Criteria for Denial of License.**

For purposes of denial of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a professional fiduciary if to a substantial degree it demonstrates present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to fiscal dishonesty or breach of fiduciary responsibilities of any kind.

*NOTE: Authority cited: Sections 481 and 6517, Business and Professions Code. Reference: Sections 481, 6536, and 6537, Business and Professions Code.*

### **§ 4522. Rehabilitation Criteria for Denial of License.**

When considering the denial of a license under Section 480 or 6536 of the Business and Professions Code, the Bureau, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered grounds for denial under Sections 480 and 6536.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).

(d) The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

*NOTE: Authority cited: Sections 482 and 6517, Business and Professions Code. Reference: Sections 482, 6536, and 6537, Business and Professions Code.*

## **Article 7. Reporting Duties of Licensee**

### **§ 4540. Annual Reporting Duties Requirements of Licensee.**

(a) A licensee ~~has a duty~~ is required to file an annual statement that complies with the requirements of Section 4542, within sixty (60) days from the date of issuance of a license as a professional fiduciary. A licensee may be subject to cite or fine or disciplinary action for failure to comply with this subdivision.

(b) A licensee ~~has a duty~~ is required to file an annual statement that complies with the requirements of Section 4542 no later than sixty (60) days prior to the expiration of the license. A licensee may be subject to cite or fine or disciplinary action for failure to comply with this subdivision.

(c) If an annual statement is filed electronically, the licensee shall fill out the form completely and print and mail in a signed copy within five days of the electronic filing. The signed copy must be received by the Bureau within the timeframes established in subdivisions (a) and (b) for compliance.

*NOTE: Authority cited: Section and 6517, Business and Professions Code. Reference: Sections 6534, and 6561, Business and Professions Code.*

### **§ 4542. Annual Statement.**

(a) As provided for in the Act, each annual statement shall include the following information:

(1) Current addresses and telephone and facsimile numbers for licensee's place of business and place of residence.

(2) The licensees designated address of record for public information.

(3) A list of any other license or professional certificate held by licensee, including information regarding the type, state/county, license or certificate number, date issued, status, and whether the license or certificate has been subject to disciplinary action, including revocation or suspension. The licensee may attach a statement of explanation.

(4) The case name, type of case, date of appointment, court location, and case number for all matters where the licensee has ever been appointed by the court to serve as a fiduciary.

(5) The names of the licensee's current conservatees and wards, and the respective case names, court locations, and case numbers; and the names **and dates of beginning services for all trusts and estates currently administered by the licensee**, and if applicable, the **respective** case names, court locations, and case numbers for the trusts and estates currently administered by the licensee.

(6) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(7) The case names, court locations, and case numbers of all conservatorships and guardianships that are closed, **and the dates of closure**, for which the licensee served as the conservator or guardian; and the names **of all trusts or other estates that are closed for which the licensee served as the trustee or personal representative and the dates of closure**, and if applicable, the case names and case numbers for **all the** trusts or other estates that are closed for which the licensee served as the trustee or personal representative.

(8) Whether the licensee or a family member of the licensee holds any ownership or beneficial interests in any businesses or other enterprises that have received payment from a client of the licensee, including the names of the applicable businesses or other enterprises, the names of the respective clients, and the dates of any payments received.

(9) The names of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business when that business filed for bankruptcy **and the date of the bankruptcy filing. The licensee may attach a statement of explanation.**

(11) Whether the licensee has been convicted of a crime. **The licensee may attach a statement of explanation.**

(12) Whether the licensee has been found by a court to have breached a fiduciary duty, the date, case name, court location, and case number associated with each breach of fiduciary duty. The licensee shall submit a record of the court findings and orders related to each specific case. The licensee may file an additional statement of the issues and facts pertaining to each case.

(13) Whether the licensee has been removed as a fiduciary by a court for breach of trust, the date, case name, court location, and case number associated with each removal. Whether all related appeals have been taken or the time to file an appeal has expired. The licensee shall submit a record of the court findings and orders related to each specific case. The licensee may file an additional statement of the issues and facts pertaining to each case.

(14) Whether the licensee has resigned as a fiduciary in a matter in which a complaint has been filed, the date **the complaint was filed, the date of resignation**, the case name, court location, and case number associated with each resignation, and a statement of the issues and facts pertaining to each allegation. The licensee shall submit a record of the court findings and orders related to each specific case.

(15) Whether the licensee has settled as a fiduciary in a matter in which a complaint has been filed, the date **the complaint was filed, the date of the settlement**, the case name, court location, **and** case number associated with each settlement, and a statement of the issues and facts pertaining to each allegation. The licensee shall submit a record of the court findings and orders related to each specific case.

(b) Unless otherwise indicated, each annual statement filed with the Bureau shall report updated information reflecting any changes from the date of reporting the information on the application for licensure as a professional fiduciary or from the date of signing the previous **annual statement, report as required by law**, whichever is applicable, to the present.

**(c) As used in this section “complaint” means a civil complaint, a petition, motion, objection, or other pleading filed with the court against the licensee alleging the licensee has not properly performed the duties of a fiduciary.**

*NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 6534, 6536, 6560, and 6561, Business and Professions Code.*

## **Article 8. Renewal of License**

### **§ 4560. Renewal.**

(a) A license may be renewed for a period of twelve (12) months.

(b) For license renewal, a licensee shall have met the annual reporting requirements of subdivision (b) of Section 4540, show proof of compliance with the continuing education requirements of Section 4442, and submit the renewal fee as required in Section 4580.

(c) For the first license renewal following the initial license period as provided in Section 4428, each licensee shall comply with the continued education requirements of Section 4442, and must earn at least the equivalent of 1.25 **units hours of continuing education credit** for each additional month extending beyond the first (twelve) 12 months of licensure.

*NOTE: Authority cited: Sections 152.6 and 6517, Business and Professions Code. Reference: Sections 152.6, 480, 481, 6538, 6541, 6561, and 6592, Business and Professions Code.*

### **§ 4562. Delinquency.**

(a) Except as otherwise provided by law, a license which has expired may be renewed upon the filing of an application for renewal and payment of the renewal fee.

(b) If a license is renewed more than thirty (30) days after its expiration, the licensee, as a condition prior to renewal, shall also pay the late delinquency fee required in Section 4580.

*NOTE: Authority cited: Section 6592, Business and Professions Code. Reference: Sections 163.5, 6541, and 6592, Business and Professions Code.*